



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SFUND RECORDS CTR

34368

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

IN THE MATTER OF:

Order No. 97-17

Howard Rubin
2969 Doña Susana Drive
Studio City, CA 91604

ADMINISTRATIVE ORDER
PURSUANT TO SECTION 106
OF THE COMPREHENSIVE
ENVIRONMENTAL RESPONSE
COMPENSATION AND
LIABILITY ACT OF 1980
as amended, 42 U.S.C.
Section 9606(a)

Simon J. Molino
5242 E. Lindsey
Pico Riveria, CA 90660

Respondents

1. This Administrative Order (Order) is issued on this date to the Respondents, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987. 52 Federal Register 2923, further delegated to the EPA Regional Administrators by U.S. EPA Delegation Nos. 14-14-A and 14-14-B, and further redelegated to the Director, Hazardous Waste Management Division by Region IX Delegations 1290.41 and 1290.42.

2. The State of California has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

3. This Order requires the Respondents to undertake and complete removal activities to abate an imminent and substantial endangerment to the public health and welfare or the environment that may be presented by the actual or threatened release of hazardous substances.

1 FINDINGS OF FACT

2
3 Based on available information, including the Administrative
4 Record in this matter, U.S. EPA hereby finds:

5 4. Site Description/Location

6 Bakersfield Chrome and Bumper is an abandoned,
7 relatively unsecured plating shop with a large volume of plating
8 wastes located at 231 Sumner Street, Bakersfield, California
9 ("the Site"). The site consists of one building used for the
10 plating operations and adjacent side and front lots which contain
11 drums and other miscellaneous plating equipment and debris.
12 Numerous vats of partially desiccated plating sludges and liquids
13 exist in the building as well as in an exterior covered plating
14 area that is built on wooden platforms over unsealed soils. The
15 Site is fenced and locked; however, the possibility exists for
16 vandals and homeless persons to enter the property and endanger
17 themselves as has occurred in the past.

18 The Site is situated in a mixed commercial and
19 light industrial area. Residential areas are located within
20 a few blocks of the facility to the south and east.

21 5. Respondents

22 Steven J. Molino operated Bakersfield Chrome &
23 Bumper ("BCB") from 1989 until he abandoned the facility in
24 1993. Howard Rubin is the owner of BCB and herein both are
25 jointly referred to as ("Respondents").

26 6. Incident/Release Characteristics

27 The site came to the attention of EPA by a
28 referral from the Kern County Health Department. In October,
29 1996, Kern County informed EPA that transients had been living in
30 the building and that the Operator had abandoned the site in
31 1993.

32 The Superfund Technical Assistance Response Team ("START")
33 evaluated the site on November 7, 1997, and estimated 2500-5000
34 gallons of plating waste (approx 16 vats and a few drums and
35 bags). At that time, Kern County Health bolstered security at
36 the site by locking the gate, posting danger, signs and
37 monitoring the site via an occasional drive by. On November 20,
38 EPA provided sampling assistance for the County in their
39 execution of a criminal search warrant at the site.

1 EPA attempted to gain a consensual access agreement and
2 to engage the property owner in discussions regarding voluntary
3 clean-up of the property; all attempts were unsuccessful. On
4 November 6, 1996, EPA issued a Notice of Federal Interest to Mr.
5 Rubin, site owner, and Mr. Molino, former site operator, and
6 requested that they begin a removal action at the Site.

7 In January, 1997, Mr. Rubin's attorney provided EPA
8 consensual access to his clients property. In addition, he
9 arranged for EPA and START to meet with Richard Casa Grande of
10 RAM Environmental, the contractor retained by Mr. Rubin for the
11 Site evaluation and clean up.

12 In March 1997, RAM Environmental submitted a draft and final
13 work plan for approval. EPA approved the final plan with minor
14 modifications. To date, RAM has not initiated the cleanup and
15 Mr. Molino now alleges that he does not possess the funds
16 necessary to conduct the clean up. Despite numerous requests for
17 information to support financial inability to pay, Mr. Molino has
18 refused to give EPA any information on his financial status.
19

20 7. Quantities and Types of Substances Present

21 There are drums and containers of waste and spent
22 plating solutions, product material, and unknown materials in the
23 exterior yard area. Some of the drums are not labeled. Inside
24 the main building are vats filled with plating solutions as well
25 as a variety of miscellaneous small containers and fiber bags.
26 Sample analysis revealed that the contents of many of the drums
27 and plating vats exhibited hazardous properties, such as, low pH
28 and high concentrations of chromium, nickel, zinc, and copper.
29 In addition, analysis of floor dusts in the main building showed
30 high concentrations of nickel and chromium. Several vats and
31 containers are in very poor condition and exhibited signs of
32 corrosion as well as a potential for leaking. Initial assessment
33 of the Site indicated the presence of an estimated 2500-5000
34 gallons of plating wastes including the contents of approximately
35 16 vats.
36

37 8. Threats to Public Health and Welfare

38 The substances of concern are strong acids and
39 oxidizing acids, and numerous heavy metal salts. Although not
40 fully characterized, it is reasonable to expect that the
41 following hazardous substances will be encountered:

42 Nitric acid is a corrosive material which can burn
43 the skin, eyes, and respiratory tract upon direct contact or
44 inhalation of vapors. It can cause acute pulmonary edema or
45 chronic pulmonary diseases from inhalation. When heated or
46 reacted with water, it produces toxic and corrosive fumes.
47

1 Hydrochloric acid is a strong corrosive which can
2 burn the skin, eyes, and mucous membranes upon dermal contact.
3 It is also moderately irritating to the respiratory tract when
4 inhaled. Hydrochloric acid produces toxic and corrosive fumes
5 when exposed to water.

6 Chromic acid is corrosive to metals and tissue.
7 It can react with combustible materials and the heat produced by
8 the reaction may be sufficient to ignite the combustible
9 materials. A fire may produce irritating or poisonous gases.

10 Chromium is a suspected Occupational Safety and
11 Health Act (OSHA) human carcinogen. Chronic exposure to chromate
12 dust may cause bronchogenic carcinoma. Chromium is a poison and,
13 when ingested, causes deleterious gastrointestinal effects.

14 Nickel dust or fume is a respiratory irritant that
15 with chronic exposure may cause nasal or lung cancer in humans.
16 The average latency period for the induction of cancer appears to
17 be 25 years. Acute exposure to nickel fumes or copper dusts can
18 cause upper respiratory tract irritation, metal fume fever,
19 nausea, vomiting, and abdominal pains.

20 21 9. Threats to the Environment

22 The identified areas of contamination present an
23 immediate threat and endangerment. Specific wildlife which may
24 be impacted have not yet been identified.

25 26 CONCLUSIONS OF LAW

27 Based on the foregoing Findings, U.S. EPA has concluded
28 that:
29

30 10. The Bakersfield Chrome & Bumper Plating shop
31 located at 231 Sumner Street, Bakersfield, California is a
32 "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C.
33 Section 9601(9).
34

35 11. Each named Respondent is a "person" as defined by
36 Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).
37

38 12. The Respondent Howard Rubin is a former "owner" of
39 the Site as defined by Section 101(20) of CERCLA, 42 U.S.C.
40 Section 9601(20).
41

42 13. The Respondent Steven J. Molino is a prior
43 "operator" of Bakersfield Chrome & Bumper as defined by Section
44 101(20) of CERCLA, 42 U.S.C. Section 9601(20)

45 14. Each Respondent is therefore a liable person under
46 Section 107(a) of CERCLA, 42 U.S.C. Section 9607.

1 15. Nitric acid, hydrochloric acid, chromic acid,
2 chromium, nickel, and cadmium are "hazardous substances" as
3 defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14),
4 and Section 302.4 of the National Contingency Plan (NCP), 40 CFR
5 Part 300.

6 16. The presence of nitric acid, hydrochloric acid,
7 chromic acid, chromium, nickel, and cadmium constitutes an actual
8 or threatened "release" as that term is defined in Section
9 101(22) of CERCLA, 42 U.S.C. Section 9601(22).

10 DETERMINATIONS

11
12 Based on the Findings of Fact and Conclusions of Law, the
13 Director, Hazardous Waste Management Division, EPA Region IX, has
14 made the following determinations:

15 17. The actual or threatened release of hazardous
16 substances from the Facility may present an imminent and
17 substantial endangerment to the public health, welfare, or the
18 environment.

19 18. The actions required by this Order, if properly
20 performed, are consistent with the National Contingency Plan
21 (NCP), 40 CFR Part 300 and CERCLA; and are appropriate to protect
22 the public health, welfare, or the environment.

23 19. The conditions present at the Site constitute a
24 threat to public health, welfare, or the environment based upon
25 consideration of the factors set forth in the NCP at 40 CFR
26 section 300.415(b). These factors include, but are not limited
27 to, the following:

28 a. Actual or potential exposure to hazardous substances
29 by nearby populations, animals, or food chain:
30

31 Elevated levels of chrome have been encountered in the vat
32 sludges and liquids and in the floor dusts of the building. As it
33 has in the past, the area may be readily accessed by trespassers.
34 County officials have identified this site as one frequented by
35 homeless in search of shelter. According to those same
36 officials, plating equipment and chemicals have likely been moved
37 around by the trespassers.

38
39 b. Actual or potential contamination of drinking water
40 supplies or sensitive ecosystems:
41

42 None identified to date. Although contamination of surface water
43 and subsequent run-off is a possibility.

- 1 c. Hazardous substances in drums, barrels, tanks, or other
2 bulk storage containers, that may pose a threat of
3 release:

4 Chromic and other strong acids have been identified in site
5 containers and drums. Numerous plating vats contain quantities of
6 a variety of plating solutions.

- 7 d. High levels of hazardous substances in soils largely at
8 or near the surface that may migrate:

9 Elevated chrome concentrations have been identified in the floor
10 dusts. Due to the existence of hazardous materials out of doors,
11 it is very possible that the soil is contaminated with heavy
12 metals such as chromium. Migration of these substance could occur
13 via wind and overland flow of rainwater.

- 14
15 e. Weather conditions that may cause hazardous substances
16 to migrate or be released:
17

18 Exposure to winter rains will accelerate the migration of any
19 metal contamination in the soil. In addition, leaks in the roof
20 and in the exterior containers may contribute to discharges of
21 the hazardous substances contained therein.

- 22
23 f. Threat of fire or explosion:

24 Mix of incompatible chemicals such as acids and bases could
25 provide sufficient energy to cause a fire at the facility. Such
26 mixing could occur upon continued deterioration and leak of
27 plating vats and could be exacerbated by weather. Air emission
28 from a fire an event could endanger surrounding residences.

- 29
30 g. The unavailability of other appropriate Federal or
31 State response mechanisms to respond to the release:

32 The total estimated cost of this removal action is greater than
33 what could be funded through State Emergency Reserve Account
34 (ERA). Kern County has no funds available for projects of this
35 nature.

36
37 ORDER
38

39 Based upon the foregoing Findings, Conclusions, and
40 Determinations, and pursuant to Section 106(a) of CERCLA, 42
41 U.S.C. Section 9606(a), it is hereby Ordered that the Respondents
42 undertake the following actions under the direction of EPA's On-
43 Scene Coordinator.

44 20. The Order is deemed effective upon the date signed
45 by the Director of Superfund.

1 21. Respondents shall notify EPA in writing by October
2 6, 1997, stating their irrevocable intent to comply with this
3 Order and conduct the work as specified in paragraph 25(a-f). In
4 the event that any Respondent fails to provide such notice, that
5 Respondent shall be deemed not to have complied with the terms of
6 this Order.

7 21. The Respondents shall restrict access to the Site
8 and shall not allow any materials, equipment, or any other item
9 to be removed from the Site without prior EPA approval.

10 22. Within seven (10) calendar days after the
11 effective date of this Order, the Respondents shall submit to
12 U.S. EPA for approval, a Work Plan for the removal activities
13 ordered as set forth in Paragraph 25(a-f). The Work Plan shall
14 provide a concise description of the activities to be conducted
15 to comply with the requirements of this Order, and shall include
16 a proposed schedule for implementing and completing the
17 activities. The Work Plan shall be reviewed by U.S. EPA, which
18 may approve, disapprove, require revisions, or modify the Work
19 Plan. The Respondents shall implement the Work Plan as finally
20 approved by U.S. EPA. Once approved, the Work Plan shall be
21 deemed to be incorporated into and made a fully enforceable part
22 of this Order.

23 23. The Work Plan shall contain a site safety and
24 health plan, a sampling and analysis plan, and a schedule of the
25 work to be performed. The site safety and health plan shall be
26 prepared in accordance with EPA's Standard Operating Safety
27 Guide, dated November, 1984, and updated July, 1988, and with the
28 Occupational Safety and Health Administration (OSHA) regulations
29 applicable to Hazardous Waste Operations and Emergency Response,
30 29 CFR Part 120. The Work Plan and other submitted documents
31 shall demonstrate that the Respondents can properly conduct the
32 actions required by this Order.

33 24. The Respondents shall retain an environmental
34 contractor qualified to undertake and complete the requirements
35 of this Order, and shall notify U.S. EPA of the name of such
36 contractor within five (5) days of the effective date of this
37 Order. U.S. EPA retains the right to disapprove of any, or all,
38 of the contractors and/or subcontractors retained by the
39 Respondents. In the event U.S. EPA disapproves of a selected
40 contractor, the Respondents shall retain a different contractor
41 to perform the work, and such selection shall be made within five
42 (5) business days following U.S. EPA's disapproval.

43 25. Within five (3) calendar days after U.S. EPA
44 approval of the Work Plan, the Respondents shall implement the
45 Work Plan as approved or modified by U.S. EPA. Failure of any
46 Respondent to properly implement all aspects of the Work Plan
47 shall be deemed to be a violation of the terms of this Order.

1 The Work Plan shall require the Respondents to perform, and
2 complete within thirty (30) calendar days after approval, at a
3 minimum, the following removal activities:

- 4 a. Sample and characterize all containerized materials;
- 5 b. Perform air monitoring and sampling in accordance with
6 OSHA requirements during all phases of the removal
7 action, especially when there is a potential for
8 airborne releases of toxic air contaminants.
9 Operational controls such as dust containment and/or
10 suppression will be used to abate fugitive dust
11 emissions;
- 12 c. Remove or stockpile non-hazardous equipment and debris
13 to provide adequate space for response operations;
- 14 d. Prepare all hazardous substances for proper transport
15 for disposal, or where feasible, alternative
16 treatment or reuse/recycle options. The above may
17 include bulking of compatibles, direct shipment for
18 reuse, recontainerization of materials into DOT
19 specification containers, lab packing small quantities,
20 solidification of liquid wastes, and neutralization or
21 other on-site treatment of wastes; and
- 22 e. Remove grossly contaminated equipment, structures and
23 debris for proper disposal. An attempt will be made to
24 decontaminate structures to non-hazardous levels and
25 minimize the volume of hazardous wastes.
26
- 27 f. Evaluate and address soil contamination.

28
29 26. The Respondents shall provide EPA with written
30 weekly summary reports. These reports should contain a summary
31 of the previous week's activities and planned up-coming events.
32

33 27. EPA shall be informed at least forty-eight (48)
34 hours prior to any on-Site work.

35 28. All sampling and analysis shall be consistent with
36 the "Quality Assurance/Quality Control Guidance for Removal
37 Activities": "Sampling QA/QC Plan and Data Validation
38 Procedures," EPA OSWER Directive 9360.4-01, dated April, 1990.

39 29. Any hazardous substance, pollutant, or contaminant
40 transferred off-Site as a result of this Order must be taken to a
41 facility acceptable under the EPA Off-Site Policy (OSWER
42 Directive 9834.11, November 13, 1987) in accordance with CERCLA
43 Section 121(d)(3), 42 U.S.C. §9621(d)(3), the Resources

1 Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section
2 9601, et seq, as amended, and all other applicable Federal,
3 State, and local requirements.

4 30. On or before the effective date of this Order, the
5 Respondents shall designate a Project Coordinator. To the
6 greatest extent possible, the Project Coordinator shall be
7 present on site or readily available during site work. The U.S.
8 EPA has designated Kathryn Lawrence as its On-Scene Coordinator.
9 The On-Scene Coordinator and the Project Coordinator shall be
10 responsible for overseeing the implementation of this Order. To
11 the maximum extent possible, communication between the
12 Respondents and the U.S. EPA, and all documents, reports, and
13 approvals, and all other correspondence concerning the activities
14 relevant to this Order, shall be directed through the On-Scene
15 Coordinator and the Project Coordinator.

16 31. The U.S. EPA and the Respondents shall each have
17 the right to change their respective designated On-Scene
18 Coordinator or Project Coordinator. U.S. EPA shall notify the
19 Respondents, and Respondents shall notify U.S. EPA, as early as
20 possible before such a change is made, but in no case less than
21 24 hours before such a change. Notification may initially be
22 verbal, but shall promptly be reduced to writing.

23 32. The U.S. EPA On-Scene Coordinator shall have the
24 authority vested in an On-Scene Coordinator by the NCP, 40 CFR
25 Part 300, as amended, including the authority to halt, conduct,
26 or direct any work required by this Order, or to direct any other
27 response action undertaken by U.S. EPA or the Respondents at the
28 facility.

29 33. No extensions to the above time frames shall be
30 granted without sufficient cause. All extensions must be
31 requested, in writing, and shall not be deemed accepted unless
32 approved, in writing, by U.S. EPA.

33 34. All instructions by the U.S. EPA On-Scene
34 Coordinator or his designated alternate shall be binding upon the
35 Respondents as long as those instructions are not clearly
36 inconsistent with the National Contingency Plan.

37 35. To the extent that the Facility, or other areas
38 where work under this Order is to be performed is owned by, or in
39 possession of, someone other than the Respondents, the
40 Respondents shall obtain all necessary access agreements. In
41 the event that after using their best efforts any Respondent is
42 unable to obtain such agreements, the Respondent shall
43 immediately notify U.S. EPA.

44 36. The Respondents shall provide access to the
45 Facility to U.S. EPA employees, contractors, agents, and

1 consultants at reasonable times, and shall permit such persons to
2 be present and move freely in the area in order to conduct
3 inspections, including taking photographs and videotapes of the
4 Facility, to do cleanup/stabilization work, to take samples to
5 monitor the work under this Order, and to conduct other
6 activities which the U.S. EPA determines to be necessary.

7 37. Nothing contained herein shall be construed to
8 prevent U.S. EPA from seeking legal or equitable relief to
9 enforce the terms of this Order, or from taking other legal or
10 equitable action as it deems appropriate and necessary, or from
11 requiring the Respondents in the future to perform additional
12 activities pursuant to CERCLA, 42 U.S.C. Section 9601, et seq.,
13 or any other applicable law.

14 38. The provisions of this Order and the directions of
15 the On-Scene Coordinator shall be binding on the employees,
16 agents, successors, and assigns of the Respondents.

17 39. The Respondents shall retain copies of all records
18 and files relating to hazardous substances found on the site for
19 six (6) years following completion of the activities required by
20 this Order and shall make them available to the U.S. EPA prior to
21 the termination of the removal activities under this Order.

22 40. The Respondents shall submit a final report
23 summarizing the actions taken to comply with this Order. The
24 report shall contain, at a minimum: identification of the
25 facility, a description of the locations and types of hazardous
26 substances encountered at the facility upon the initiation of
27 work performed under this Order, a chronology and description of
28 the actions performed (including both the organization and
29 implementation of response activities), a listing of the
30 resources committed to perform the work under this Order
31 (including financial, personnel, mechanical and technological
32 resources), identification of all items that affected the actions
33 performed under the Order and discussion of how all problems were
34 resolved, a listing of quantities and types of materials removed
35 from the facility, a discussion of removal and disposal options
36 considered for any such materials, a listing of the ultimate
37 destination of those materials, and a presentation of the
38 analytical results of all sampling and analysis performed and
39 accompanying appendices containing all relevant paperwork accrued
40 during the action (e.g., manifests, invoices, bills, contracts,
41 permits). The final report shall also include an affidavit from
42 a person who supervised or directed the preparation of that
43 report. The affidavit shall certify under penalty of law that
44 based on personal knowledge and appropriate inquiries of all
45 other persons involved in preparation of the report, the
46 information submitted is true, accurate, and complete to the best

1 of the affiant's knowledge and belief. The report shall be
2 submitted within thirty (30) days of completion of the work
3 required by the U.S. EPA.

4 41. All notices, reports, and requests for extensions
5 submitted under terms of this Order shall be sent by certified
6 mail, return receipt requested, and addressed to the following:
7

8 one copy Kathryn Lawrence
9 On-Scene Coordinator (SFD-6)
10 75 Hawthorne Street
11 San Francisco, CA 94105
12 (415) 744-2316
13

14 one copy John Jaros
15 Enforcement Specialist
16 75 Hawthorne Street
17 San Francisco, CA 94105
18 (415) 744-2316

19 42. If any provision of this Order is deemed invalid
20 or unenforceable, the balance of this Order shall remain in full
21 force and effect.

22 REIMBURSEMENT OF COSTS

23 43. Respondents shall reimburse EPA, upon written
24 demand, for all response costs incurred by the United States in
25 overseeing Respondents' implementation of the requirements of
26 this Order. EPA may submit to Respondents on a periodic basis a
27 bill for all response costs incurred by the United States with
28 respect to this Order. EPA's itemized Cost Summary, or such
29 other summary as certified by EPA, shall serve as the basis for
30 payment.

31 44. Respondents shall, within 30 days of receipt of
32 the bill, remit a cashier's or certified check for the amount of
33 those costs made payable to the "Hazardous Substance Superfund"
34 to the following address:

35 U.S. Environmental Protection Agency
36 Superfund Accounting
37 P.O. Box 360863M
38 Pittsburgh, PA 15251

39 45. Respondents shall simultaneously transmit a copy
40 of the check to the Deputy Director, Hazardous Waste Management
41 Division, U.S. EPA Region 9. Payments shall be designated as
42 Response Costs - Omega Chemical Site and shall reference the
43 payor's name and address, the EPA Site identification number and
44 the docket number of this Order.

1 45. Interest at a rate established by the Department
2 of the Treasury pursuant to 31 U.S.C. Section 3717 and 4 CFR
3 Section 102.13 shall begin to accrue on the unpaid balance from
4 the day after the expiration of the 30 day period notwithstanding
5 any dispute or an objection to any portion of the costs.

6 MODIFICATIONS

7 46. Modifications to any plan or schedule may be made
8 in writing by the OSC or at the OSC's oral direction. If the OSC
9 makes an oral modification, it will be memorialized in writing
10 within 5 days; provided, however, that the effective date of the
11 modification shall be the date of the OSC's oral direction.

12 46. The rest of the Order, or any other portion of the
13 Order may only be modified in writing by signature of the
14 Director of the Hazardous Waste Management Division. If
15 Respondents seek permission to deviate from any approved plan or
16 schedule, Respondents' Project Coordinator shall submit a written
17 request to EPA for approval outlining the proposed modification
18 and its basis.

19 47. No informal advice, guidance, suggestion, or
20 comment by EPA regarding reports, plans, specifications,
21 schedules, or other writing submitted by the Respondents shall
22 relieve the Respondents of their obligations to obtain such
23 approval as may be required by this Order, and to comply with all
24 requirements of this Order unless it is formally modified.

25 ACCESS TO ADMINISTRATIVE RECORD

26
27 48. The Administrative Record supporting the selection
28 of the response action for this site is available for review on
29 normal business days between the hours of 9:00 a.m. and 5:00 p.m.
30 in the Office of Regional Counsel, United States Environmental
31 Protection Agency, Region IX, 75 Hawthorne Street, 16th Floor,
32 San Francisco, California. Please contact Jeannie Cervera,
33 Assistant Regional Counsel, at (415) 744-1395 to review the
34 Administrative Record.

35 OPPORTUNITY TO CONFER

36
37 49. With respect to the actions required above, the
38 Respondents may within seven (7) calendar days after issuance of
39 this Order, request a conference with the U.S. EPA. Any such
40 conference shall be held within three (3) calendar days from the
41 date of request unless extended by mutual agreement of the
42 parties. At any conference held pursuant to the request, the
43 Respondents may appear in person, or be represented by an
44 attorney or other representative. If any Respondent desires such
45 a conference, the Respondent shall contact:

1 Jeannie Cervera
2 Assistant Regional Counsel (RC 3-1)
3 United States Environmental Protection Agency
4 75 Hawthorne Street
5 San Francisco, CA 94105
6 (415) 744-1395

7 50. If such a conference is held, the Respondents may
8 present any evidence, arguments or comment regarding this Order,
9 its applicability, any factual determinations upon which the
10 actions Order is based, the appropriateness of any action which
11 the Respondents are ordered to take, or any other relevant and
12 material issue. Any such evidence, arguments or comments should
13 be reduced to writing and submitted to U.S. EPA within three (3)
14 calendar days following the conference. If no conference is
15 requested, any such evidence, arguments or comments must be
16 submitted in writing within three (3) calendar days following the
17 effective date of this Order. Any such writing should be
18 directed to Jeannie Cervera, Assistant Regional Counsel, at the
19 address cited above.

20 51. The Respondents are hereby placed on notice that
21 U.S. EPA will take any action which may be necessary in the
22 opinion of U.S. EPA for the protection of public health and
23 welfare and the environment, and Respondents may be liable under
24 Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the
25 costs of those government actions.

26 PENALTIES FOR NONCOMPLIANCE
27

28 52. The Respondents are advised pursuant to Section
29 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful
30 violation or subsequent failure or refusal to comply with this
31 Order, or any portion thereof, may subject the Respondents to a
32 civil penalty of up to \$25,000 per day for each day in which such
33 violation occurs, or such failure to comply continues. Failure
34 to comply with this Order, or any portion thereof, without
35 sufficient cause may also subject the Respondents to liability
36 for punitive damages in an amount three times the amount of
37 any cost incurred by the government as a result of the failure of
38 the Respondents to take proper action, pursuant to Section
39 107(c) (3) of CERCLA, 42 U.S.C. Section 9607(c) (3).

40 COMPLIANCE WITH OTHER LAWS

41 53. The Respondents shall comply with all applicable
42 federal, state, and local laws and regulations in carrying out
43 the terms of this Order. As indicated above, all hazardous
44 substances removed from the Site must be handled in accordance
45 with the Resource Conservation and Recovery Act of 1976, 42

1 U.S.C. Section 6921, et seq., the regulations promulgated under
2 that Act, and Section 121(d) (3) of CERCLA, 42 U.S.C. Section
3 9621(d) (3).


4 ENDANGERMENT DURING IMPLEMENTATION

5
6 54. The Director, Hazardous Waste Management Division,
7 EPA Region 9, may determine that acts or circumstances (whether
8 related to or unrelated to this Order) may endanger human health,
9 welfare, or the environment, and as a result of this
10 determination, may order the Respondents to stop further
11 implementation of this Order until the endangerment is abated.

12 GOVERNMENT NOT LIABLE

13 55. The United States Government and its employees and
14 other representatives shall not be liable for any injuries or
15 damages to persons or property resulting from the acts or
16 omissions of the Respondents, their employees, contractors, or
17 other representatives caused by carrying out this Order. For the
18 purpose of this Order, the United States Government is not a
19 party to any contract with the Respondents.

20 THIS ORDER IS ISSUED on this 25th day of September, 1997.
21 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

22 By: 
23 for Keith Takata, Director
24 Superfund
25 United States Environmental
26 Protection Agency Region IX
27

Contacts:

Kathryn Lawrence
Federal On-Scene Coordinator
Emergency Response Section (SFD-6)
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2289

John P. Jaros
Investigations and Enforcement
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